

Following a bench trial, Antonio Barbut was convicted of Domestic Battery¹ as a class A misdemeanor. Barbut challenges the sufficiency of the evidence as the sole issue on appeal.

We affirm.

The facts most favorable to Barbut's conviction follow. During the evening of July 12, 2008, Robin Barbut,² Barbut's wife of approximately one year, went to an adult theme party with her adult daughter, Brandy. Barbut seemed agitated and upset that Robin was going to the party with her daughter. Robin and Brandy left the party at approximately 10:30 p.m. and went to a local bar with a group of women who had been at the party. Barbut eventually called Robin on her cell phone and asked where she was. Robin informed him where she was and asked Barbut to join her. Barbut declined and told Robin that he would see her when she got home. Approximately a minute and a half later, Robin saw Barbut at the bar. Robin asked Barbut to join her, but he "flipped [her] off" and, to Robin's knowledge, left the bar.³ *Transcript* at 8.

When Robin and Brandy returned to Robin and Barbut's apartment, Robin noticed that her car was missing. Barbut then pulled up behind Robin and Brandy in Robin's car. The three entered the apartment. Barbut went into the bedroom and into the walk-in closet. Robin followed him into the closet, looking for bedding for Brandy who was going to spend

¹ Ind. Code Ann. § 35-42-2-1.3 (West, Premise through 2008 2nd Regular Sess.).

² The transcript provides that Robin spelled her last name for court as "B-A-R-B-E-T". *Transcript* at 5. All other indications in the record are that her last name, and thus, defendant's last name, is spelled with a "u", not an "e".

³ Brandy had also seen Barbut at the bar.

the night at the apartment. Robin asked Barbut about the location of extra bedding, and Barbut cursed at her. Robin then told Barbut their marriage was over, walked out of the bedroom, and slammed the door.

Robin went into the living room area where Brandy was sitting at a card table. Barbut approached Robin, picked her up by her neck, and threw her approximately 8-10 feet across the room into the sliding glass doors. Robin felt pain on her head and in her neck and back. Brandy called the police, while Robin went into the bedroom and locked the door. Barbut followed Robin and kicked the bedroom door open. In the bedroom, Robin was attempting to tear up their marriage license, but Barbut grabbed her hands, preventing Robin from accomplishing the task. At trial, Barbut admitted that he kicked open the bedroom door and that he grabbed the marriage license out of Robin's hand. When Barbut grabbed her hand, Barbut sprained her finger, causing pain.

On July 13, 2008, the State charged Barbut with domestic battery as a class A misdemeanor and battery as a class A misdemeanor. A bench trial was held on August 8, 2008. The trial court found Barbut guilty as charged, but entered a judgment of conviction only for domestic battery. The trial court subsequently sentenced Barbut to 365 days with 275 days suspended, and 275 days probation.

Barbut argues that the evidence is insufficient to sustain his conviction for domestic battery. Specifically, Barbut argues that the testimony of the victim and the only eyewitness is unbelievable.

Our standard of review is well settled. When considering a challenge to the sufficiency of evidence to support a conviction, we respect the fact-finder's exclusive province to weigh the evidence and therefore neither reweigh the evidence nor judge witness credibility. *McHenry v. State*, 820 N.E.2d 124 (Ind. 2005). We consider only the probative evidence and reasonable inferences supporting the verdict, and “must affirm ‘if the probative evidence and reasonable inferences drawn from the evidence could have allowed a reasonable trier of fact to find the defendant guilty beyond a reasonable doubt.’” *Id.* at 126 (*quoting Tobar v. State*, 740 N.E.2d 109, 111-12 (Ind. 2000)).

To convict Barbut of domestic battery, the State was required to prove that Barbut knowingly or intentionally touched Robin, his wife, in a rude, insolent, or angry manner that resulted in bodily injury to Robin. I.C. § 35-42-2-1.3. “Bodily injury” is defined as “any impairment of physical condition, including physical pain.” Ind. Code Ann. § 35-41-1-4 (West, Premise through 2008 2nd Regular Sess.).

Both Robin and Brandy testified that Barbut came up behind Robin, grabbed her by the neck, and threw her 8-10 feet across the room into sliding glass doors. Robin testified that she felt pain about her head, neck, and back. Barbut claims that his version of events (i.e., that Robin jumped up and tried to grab him when he put his hands on her neck to quiet her down and that Robin slipped and fell and was injured when he pushed her away in self-defense) is more believable, and therefore, the Robin and Brandy's testimony should not be given credence. We find nothing in Robin and Brandy's testimony that is unbelievable. In fact, their testimony of the events of that evening is remarkably consistent.

Having reviewed the record, we conclude that the State presented sufficient evidence to prove beyond a reasonable doubt that Barbut committed domestic battery. We reject Barbut's invitation for us to reweigh the evidence and judge the credibility of the witnesses.

Judgment affirmed.

MAY, J., and BRADFORD, J., concur